IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY SEVENTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

and
THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 27013 of 1996

Between:

M/s Sri Venkateswara Engineering Works, Rep. by its Partner Sri G.M.Satyanarayana, Tanku, W.G.District.

..... PETITIONER

AND

The Sales Tax Appellate Tribunal, Rep. by its Secretary,
Ground Floor, C.T.Building,
Nampally, Hyderabad.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly in the nature of Writ of Certiorari after calling for the entire records and quash the proceedings of the respondent dt:27-9-96 in T.M.P.No/38/96 AR NO.121/96 TMP No.39/96 in AR.NO.122/96 and TMP No.40/96 in AR.NO.123/96 relating to assessment years 1988-89, 1989-90 and 1990-91 APGST as illegal, arbitrary unjust and violative of Art.265 of the Constitution of India and Consequently directing the respondent to register the appeals filed by the petitioner U/s.21 of the APGST Act, 1957 and dispose of the same in accordance with law and pass such other order or orders as may be deemed fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.G.N.CHETTY

Counsel for the Respondent: MR.K.RAJI REDDY(SPL.SC FOR CT)

The Court at the stage of admission made the following :

Oral Order: (per Sri BRSR.J)

The Sales Tax Appellate Tribunal after an elaborate consideration of the matter dismissed the application filed by the petitioner herein seeking condonation of delay of 817 days in filing the appeals before the Tribunal against the orders of the Deputy Commissioner, Eluru revising the orders of the Deputy Commercial Tax Officer, Tanuku. The Tribunal found that the petitioner herein failed to prefer the appeals in time against the crucial adverse findings of fact drawn by the revising authority against it. The application, therefore, cannot be entertained to condone the inordinate delay of 817 days.

In the affidavit filed in support of the application seeking condonation of delay before the Tribunal, it is stated that the Deputy Commissioner followed various decisions of this court and the Supreme Court in treating rough cast iron castings made by the petitioner as general goods and not declared goods. According to the petitioner, no useful purpose would have been served even if any appeals were preferred against the order passed by the Deputy Commissioner. The case set up by the petitioner was that subsequent to the decision reported in ***THE STATE OF A.P. Vs. VENKATESH FOUNDARIES*** this Court clarified the scope of the earlier judgment of this Court in ***M/S.DECCAN ENGINEERS, HYDERABAD Vs. STATE OF A.P.*** as well as the decision of the Supreme Court in ***BENGAL IRON CORPORATION Vs. STATE OF A.P.*** and held that those judgments apply to finished goods or ready to use castings and that rough or crude cast iron shall continue to be classified under cast iron as declared goods. The appeals have been preferred only in view of the subsequent clarification of the legal position by this Court in ***VENKATESH FOUNDARIE'S*** case (1 supra). This issue has been

critically examined by the Tribunal and it was found that the same cannot give rise to a cause for filing the appeals with inordinate delay. The Tribunal held that nothing prevented the petitioner herein to prefer the appeals when the adverse findings against it were recorded.

Learned counsel for the petitioner Sri V.Narendra Chetty however relied upon the decision of this Court in W.P.No.18747 and 18748 of 1994 dated 26.10.1994 wherein this Court on the facts and circumstances condoned the delay on payment of costs which the Court thought would meet the ends of justice. That order cannot be treated as a precedent. The question that arises for consideration is whether the reasons stated in the affidavit filed in support of the application disclose sufficient cause to condone the delay in filing the appeals. That on consideration of facts, we are clear in our mind that the grounds stated by the petitioner in support of the application cannot be treated as sufficient cause for condoning the delay in filing the appeals. Subsequent change in law by itself could not be a ground to give rise to a cause for filing appeals against the orders which have otherwise become final.

Learned counsel for the petitioner however placed reliance on the decision in ***SURYA GENERAL TRADERS Vs. CTO, PALAKOL*** wherein this court took the view that where a dealer has a good case on merits, the State should not take technical plea of limitation so as to deprive the dealer of his just dues. We have our own reservations as regards the observations made by this court in the said judgment that plea of limitation is a technical plea. It is unnecessary to go into that question in the present case since we are not satisfied with the case set up by the petitioner. The observations made in the case of ***SURYA GENERAL TRADERS*** (4 supra) may have to be confined to the facts in that case. It cannot be treated as a precedent.

For the aforesaid reasons, we find no merit in this writ petition. The same shall accordingly stand dismissed.

(B.SUDERSHAN REDDY,J)

DT.27..04..2005

(C.V.RAMULU,J)

msv.

To

1. The Sales Tax Appellate Tribunal, Rep. by its Secretary,
Ground Floor, C.T.Building,
Nampally, Hyderabad.

2 2 CCs to Sri MR.K.RAJI REDDY(SPL.SC FOR CT), High Court of A.P.

Hyderabad (OUT)

3 2 CD copies.